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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/614,496

07/11/2000

Thomas Flynn

255/087

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03/11/2005

ORRICK, HERRINGTON & SUTCLIFFE, LLP

4 PARK PLAZA

SUITE 1600

IRVINE, CA 92614-2558

EXAMINER

NGUYEN, TU X

ART UNIT

PAPER NUMBER

2684

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/614,496

Applicant(s)

FLYNN, THOMAS

Examiner

Tu X Nguyen

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-14 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 10, 11 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over Opal (US Patent 5,801,632), in view of Schilling et al. (US Patent 5,564,280) and further in view of Elliott (US Patent 5,925,848).

Regarding claim 1, Opal discloses a cabinet for underground storage (see col.8 lines 36-45) of wireless telecommunications equipment (see col.2 lines 45-29), comprising

an enclosure (see col.5 lines 13-15),

a self contained air conditioning unit mounted within the enclosure, the air conditioning unit being adapted to cool and circulate the air within the enclosure (see col.5 lines 19-21),

a weight assisted rack assembly for mounting electronic components within the enclosure (see col.7 lines 34-40, "support" and "stainless steel for strength" reads on "weight assisted").

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Opal fails a water evacuation system including a one-way pressure actuated exhaust valve.

Schilling et al. disclose a water evacuation system including a one-way pressure actuated exhaust valve (see col.5 lines 29-55, the one-way actuated valves is not exception for water flow. In this case, "refrigerant fluid" reads on water). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Opal with the above teaching of Schilling et al. in order to provide an air-conditioner system providing one-way actuated valve to prevent back-flow form the high pressure side to the low pressure side.

Regarding claim 8, the modified Opal discloses the enclosure is submergible under water without leakage of water into enclosure (see Opal, col.6 lines 44-49).

4. Claims 9 and 14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Opal (US Patent 5,801,632), in view of Schilling et al. (US Patent 5,564,280) and further in view of Elliott (US Patent 5,925,848).

Regarding claims 9 and 14, Opal fails to disclose the evacuation system includes a sump pump mounted in the bottom portion of the enclosure, the sump pump being in fluid communication with the exhaust valve.

Elliott discloses the evacuation system includes a sump pump mounted in the bottom portion of the enclosure, the sump pump being in fluid communication with the exhaust valve (see col.5 lines 24-30). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the

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combined Opal with the above teaching of Elliott in order to provide a pump for pumping out the water.

5. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Opal, in view of Schilling et al in view of Marzec et al. (US Patent 6,238,029).

Regarding claims 2-3, the modified Opal fail to disclose the enclosure is formed as a suitable sheet metal weldment and stainless steel.

Marzec et al. disclose the enclosure is formed as a suitable sheet metal weldment and stainless steel (see col.7 line 5 through col.8 line 9). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the modified Opal with the above teaching of Marzec et al. in order to provide strong frame structure and preventing corrosion.

Regarding claim 4, the modified Opal fails to disclose "an enclosure is about two feet wide, two to five feet long, and four feet deep". However, It would have been obvious to one of ordinary skill in the art at the time the invention was made the enclosure dimension that anyone could make, and is nothing coming out of an unordinary of the unexpected size.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Opal, in view of Schilling et al. in view of Parish, IV et al. (US Patent 6,462,949).

Regarding claim 5, the modified Opal fails to disclose the air conditioning unit includes a low profile heat exchanger mounted external to the enclosure.

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Parish et al. disclose a heat exchanger mounted external to the enclosure (see col.10 lines 21-25). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the modified Opal with the above teaching of Parish in order to provide water and outside air circulate to cool the heat exchanger.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Opal, in view of Schilling et al., in view of Parish, IV et al. and further in view of Katchka et al. (US Patent 5,190,452).

Regarding claim 6, the modified Opal fails to disclose a vent cage surrounding the heat exchanger and attached to the enclosure.

Katchka et al. disclose a vent cage surrounding the heat exchanger (see col.4 lines 12-32). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the modified Opal with the above teaching of Katchka et al. in order to provide cooling air to heat exchanger.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Opal, in view of Schilling et al., in view of Parish, IV et al., in view of Katchka et al. and further in view of Tikka (US Pub 2001/0052412).

Regarding claim 7, the modified Opal fails to disclose filter material mounted in the upper portion of the cage above the heat exchanger.

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Tikka disclose a filter material (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the modified Opal with the above teaching of Tikka in order to provide filter material to filter air dust circulate in to the system.

9. Claims 12-13, 18 and 20, are rejected under 35 U.S.C. 103(a) as being unpatentable over Opal, in view of Schilling et al. and further in view of Csapo et al. (US Patent 6,411,825).

Regarding claims 12 and 18, the modified Opal disclose everything as claim 1 above. However, the modified Opal fails to disclose a vertical structure such as a light standard or road sign, an antenna mounted atop of the vertical structure.

Csapo et al. disclose a vertical structure such as a light standard or road sign, an antenna mounted atop of the vertical structure (col.2 lines 1-22). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Opal with the above teaching of Csapo et al. in order to provide antenna for base station to wirelessly communicate with mobile stations.

Regarding claim 13, the modified Opal discloses the enclosure is submergible under water without leakage of water into enclosure (see Opal, col.6 lines 44-50).

Regarding claim 20, the modified Opal discloses a weight assisted rack assembly for mounting electronic components within the cabinet (see Opal, col.7 lines 25-40).

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10. Claims 16-17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Opal, in view of Schilling et al., in view of Marzec et al and further in view of Csapo et al. (US Patent 6,411,825).

Regarding claim 16, the modified Opal discloses everything as claim 2 above.

Regarding claim 17, the modified Opal discloses everything as claim 4 above.

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Opal, in view of Schilling et al., in view of Marzec et al and further in view of Parish et al.

Regarding claim 19, the modified Opal discloses everything as claim 5 above.

Allowable Subject Matter

12. Claims 10-11 and 15, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding dependent claims 10 and 15, the prior arts (Schilling et al.) teaching a cap snaps onto distal end (see col.7 lines 37-59). However, the prior arts fail to teach "the exhaust valve includes a valve body and a valve cap slidably attached to the valve body, the valve cap being expandable to a position flush with a top surface of the enclosure", as cited in the claim.

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Regarding dependent claim 11, the prior art fail to teach "the rack assembly includes a pulley and weight system connected to the rack, the pulley and weight system including sufficient weight to draw the rack up and rise out of the enclosure", as cited in the claim.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed Tu Nguyen whose telephone number is 703-305-3427. The examiner can normally be reached on Monday through Friday from 8:30AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MAUNG NAY A, can be reached at (703) 308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

TN

February 23, 2005



NICK CORSARO
PRIMARY EXAMINER